

CHAPTER 472. STREET RAILWAYS

STREET RAILWAY COMPANIES

Act 35 of 1867

AN ACT to provide for the formation of street railway companies, defining their powers and duties and authorizing the construction, use, maintenance and ownership of street railways for the transportation of passengers, and for accumulating, storing, manufacturing, conducting, using, selling, furnishing and supplying electricity and electric power, by such companies.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—Am. 1919, Act 179, Eff. Aug. 14, 1919.

The People of the State of Michigan enact:

472.1 Street railway companies; organization.

Sec. 1. That street railway companies may be organized under the provisions of this act.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2502;—How. 3536;—CL 1897, 6434;—CL 1915, 8532;—CL 1929, 11292;—CL 1948, 472.1.

472.2 Street railway companies; incorporators, name.

Sec. 2. Any number of persons, not less than 3, desiring to form a corporation for the purpose of constructing, owning, maintaining, or using any street railway in any city, village or township in this state, may by articles of agreement in writing, associate for that purpose, under any name assumed by them in their articles of association; Provided, That, no 2 companies shall assume the same name.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2503;—How. 3537;—CL 1897, 6435;—CL 1915, 8533;—CL 1929, 11293;—CL 1948, 472.2.

472.3 Articles; contents, signing, acknowledgement.

Sec. 3. Such articles of association shall be signed by the persons associating in the first instance, and acknowledged before some officer authorized by the laws of this state to take acknowledgment of deeds, and shall state—

First. The name by which the corporation shall be known in the law.

Second. Definitely and distinctly the purpose for which the corporation is formed.

Third. The amount of their capital stock, and the number of the shares thereof.

Fourth. The names of the stockholders, their respective residences, and the number of shares held by each.

Fifth. The city or village in which the office for the transaction of their business shall be located, and where their business is to be carried on.

Sixth. The term of the existence of the corporation, which shall not exceed 30 years.

Seventh. The number of the directors of the corporation, and the names of those who shall be directors for the first year.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2504;—How. 3538;—CL 1897, 6436;—CL 1915, 8534;—CL 1929, 11294;—CL 1948, 472.3.

472.4 Articles; filing, prerequisites; body corporate, powers; certified copy as evidence.

Sec. 4. Said articles of association may be filed in the office of the secretary of state; and thereupon all persons who have subscribed the same, and all persons who shall from time to time become stockholders in such company, shall be a body politic and corporate, by the name specified in such articles, and by such name shall be capable of suing and being sued in any court of this state, and may have a common seal, and may alter and change the same at pleasure. A copy of any articles of association, filed in pursuance of this act, and certified by the secretary of state to be a true copy thereof and of the whole of such articles of association, shall be in all courts and places, presumptive evidence of the incorporation of such company, and of the facts therein stated: Provided, That such articles shall not be filed in the office of the secretary of state, as aforesaid, until stock to the amount of 25,000 dollars has been subscribed thereto, nor until 25 per cent of the amount of the stock subscribed as aforesaid, shall have been actually paid in cash, to the directors named in such articles, nor until there is annexed thereto an affidavit, made by at least 3 of the directors named in said articles that the amount of stock required by this section, to wit: 25,000 dollars has been subscribed and that 25 per cent, on the amount has been actually paid in.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—Am. 1869, Act 137, Eff. July 5, 1869;—CL 1871, 2505;—How. 3539;—CL 1897,

472.5 Capital stock, common and preferred; directors, powers, election; insolvency, application of assets.

Sec. 5. The amount of the capital stock in every such corporation shall be fixed and limited by the stockholders in their articles of association, and shall in no case be less than 10,000 dollars, and shall be divided into shares of 100 dollars each; but the capital stock and the number of shares thereof may be increased at any lawful meeting of the stockholders; and whenever any such increase shall be made, a certificate showing the amount of such increase, signed by the president and secretary of the company, and sealed with its corporate seal, shall be filed in the office of the secretary of state. Any such company by its articles of association, or by amendment thereto, approved at any lawful meeting of the stockholders by vote of 3/4 in interest of its capital stock, shall have power to create and issue certificates for 2 kinds of stock, namely: General or common stock and preferred stock of 1 or more classes; which preferred stock shall at no time exceed 80 per centum of the actual capital paid in, and shall be subject to redemption at not less than par at a certain time to be fixed by the by-laws of said corporation, and to be expressed in the certificates therefor. And the holder of such preferred stock shall be entitled to a fixed dividend, payable quarterly, half yearly, or yearly, which said dividend shall be cumulative, payable at the time expressed in said certificate, not to exceed 8 per cent per annum, before any dividends shall be set apart or paid on the common stock. Said corporation shall be controlled by a board of directors elected by the preferred and common stockholders, excepting when otherwise provided in the articles of association or amendments thereto: Provided always, If at any time upon a fair valuation of the assets of the corporation the common stock shall be impaired in an amount equal to 20 per cent thereof, or any annual dividend or accrued dividends for 1 year due on the preferred stock shall remain unpaid for 60 days, then holders of the preferred stock shall have an equal right with the common stock, share and share alike, to participate in the election of directors and control of said corporation. If for any reason said corporation shall cease business or become insolvent, then after the payment of all liabilities and debts, the remainder of the assets of such corporation shall be applied first to the payment in full of all preferred stock and then unpaid dividends due thereon, and the balance divided pro rata, share and share alike, among the holders of the common stock. Every corporation organized or existing under the provisions of this act may, by its articles of association, or by an amendment thereto approved at any lawful meeting of stockholders by a vote of 3/4 in interest of its capital stock, provide for an issue of common stock of non-par value, in accordance with subdivision 2 (being sections 6 to 9 both inclusive) of part 2, chapter 2 of Act No. 84 of the Public Acts of 1921. Nothing in this section shall be construed as relieving or excepting any such corporation or any person or persons from complying with the provisions of Act No. 144 of the Public Acts of 1909, as amended by Act No. 177 of the Public Acts of 1911, Act No. 259 of the Public Acts of 1915, and Act No. 381 of the Public Acts of 1919.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2506;—How. 3540;—CL 1897, 6438;—CL 1915, 8536;—Am. 1917, Act 313, Imd. Eff. May 10, 1917;—Am. 1923, Act 214, Eff. Aug. 30, 1923;—CL 1929, 11296;—CL 1948, 472.5.

Compiler's note: As to repeal of Act 84 of 1921, referred to in this section, see § 450.191 and note thereto. For provisions of Act 144 of 1909, referred to in this section, see § 460.301 et seq.

472.6 Directors; number, election, vacancy, term, qualifications.

Sec. 6. The business and property of such company shall be managed and directed by a board of not less than 3 nor more than 13 directors, who, after the first year, shall be elected annually, or once in 2 years, as the by-laws of said company shall direct, and at such time and place as said by-laws may direct; and public notice shall be given of the time and place of holding such election, not less than 20 days previous thereto, in such manner as the by-laws of such company may direct; the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. In all elections each stockholder shall be entitled to cast as many votes as he shall own shares of stock, and the persons having the greatest number of votes shall be directors. Whenever any vacancy shall happen in the board of directors such vacancy shall be filled for the remainder of their term by the remaining directors. The directors shall hold their offices for 1 or 2 years, as said by-laws may direct, and until others are elected in their places; and no person shall be a director unless he is a stockholder in said company; and no stockholder shall vote at any election who has not paid all assessments then due on the stock held by him.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2507;—How. 3541;—CL 1897, 6439;—Am. 1901, Act 79, Imd. Eff. Apr. 22, 1901;—CL 1915, 8537;—CL 1929, 11297;—CL 1948, 472.6.

472.7 Directors; calling of election.

Sec. 7. In case it shall happen that an election for directors shall not be held as provided the said corporation shall not be, for that reason, dissolved, but such election shall be held on some future day, to be fixed by the directors holding over, upon giving the notice thereof, as in this act provided, and all acts of the directors shall be binding upon such corporation.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2508;—How. 3542;—CL 1897, 6440;—CL 1915, 8538;—CL 1929, 11298;—CL 1948, 472.7.

472.8 Directors; quorum.

Sec. 8. A majority of the directors shall be a board for the transaction of business, and the acts of a majority of the board shall bind the corporation.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2509;—How. 3543;—CL 1897, 6441;—CL 1915, 8539;—CL 1929, 11299;—CL 1948, 472.8.

472.9 Directors; officers; selection, term, vacancy.

Sec. 9. The directors shall choose, by ballot, a president who shall be 1 of the directors, and they shall also choose a secretary and treasurer, who shall hold their offices during such time as the by-laws of the company shall prescribe, and until others are chosen in their stead; and the directors shall supply any vacancy in the office of president, secretary or treasurer, whenever the same shall occur.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2510;—How. 3544;—CL 1897, 6442;—CL 1915, 8540;—CL 1929, 11300;—CL 1948, 472.9.

472.10 President and directors; powers.

Sec. 10. The president and directors shall have power to make and prescribe such by-laws, rules and regulations, respecting the transfer of stocks, and the management and control of the property and affairs of such corporation, the time and manner of calling and holding the meetings of the stockholders and directors, the time for the election of directors and officers, and the terms for which they shall hold their respective offices, as they may deem best, not inconsistent with the laws of the United States or of this state, and shall have power to appoint and employ officers, clerks, agents and servants, for conducting and carrying on the business of such corporation, and determine their duties and salaries, and wages to be paid to them.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2511;—How. 3545;—CL 1897, 6443;—CL 1915, 8541;—CL 1929, 11301;—CL 1948, 472.10.

472.11 Shares of stock; payment of subscription, forfeiture.

Sec. 11. The directors may require the subscribers, to the capital stock of the company to pay the amount by them respectively subscribed, in such manner, and in such installments as they may deem proper. If any stockholder shall neglect to pay any installment as required by a resolution of the board of directors, the said board, shall be authorized to sue for the same, or declare his stock and all previous payments thereon forfeited for the use of the company; but they shall not declare it so forfeited until they shall have caused a notice, in writing, to be served on him personally, or by depositing the same in the postoffice properly directed to him at the postoffice nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice, and that if he fails to make the same, his stock and all previous payments thereon will be forfeited for the use of the company, which notice shall be served as aforesaid, at least 60 days previous to the day on which such payment is required to be made.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2512;—How. 3546;—CL 1897, 6444;—CL 1915, 8542;—CL 1929, 11302;—CL 1948, 472.11.

472.12 Shares of stock; status as personalty; transfer; subscriptions; issuance for part payment.

Sec. 12. The shares in the capital stock of any corporation formed under this act shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of said company. The directors of any such company may from time to time receive subscriptions to stock in said company, until the whole amount of the stock of the association shall be subscribed; but no certificates of shares in any such company shall be issued until the whole amount of the shares mentioned in such certificate shall have been paid in full to the company.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2513;—How. 3547;—CL 1897, 6445;—CL 1915, 8543;—CL 1929, 11303;—CL 1948, 472.12.

472.13 Street railway, consent to construction and maintenance; condemnation, procedure, minerals; generation and sale of electric power.

Sec. 13. Any street railway corporation organized under the provisions of this act, may, with the consent of the corporate authorities of any city or village, given in and by an ordinance or ordinances duly enacted for that purpose, and under such rules, regulations and conditions as in and by such ordinance or ordinances shall be prescribed, construct, use, maintain and own a street railway for the transportation of passengers in and upon the lines of such streets and ways, in said city or village, as shall be designated and granted from time to time for that purpose, in the ordinance or ordinances granting such consent; but no such railway company shall construct any railway in the streets of any city or village until the company shall have accepted in writing the terms and conditions upon which they are permitted to use said streets; and any such company may extend, construct, use and maintain their road in and along streets or highways of any township adjacent to said city or village, upon such terms and conditions as may be agreed upon by the company and the township board of the township, which agreement, and the acceptance by the company of the terms thereof, shall be recorded by the township clerk in the records of his township. Any company organized under the provisions of this act may construct, use, maintain and own a street railway for the transportation of passengers in and along the streets and highways of any township upon such terms and conditions as may be agreed upon by the company and the township board of the township, which agreement, and the acceptance by the company of the terms thereof, shall be recorded by the township clerk in the records of the township; and any such company may construct, use, maintain and own a street railway upon private rights of way and all such companies shall, when necessary to enter upon and use private property in such construction and operation, have the same power and right of eminent domain as is now possessed by railroad companies. All proceedings at law or in equity necessary to give this section effect shall be the same as proceedings for the condemnation of property for companies organized under the general railroad law and all statutes relative to the exercise of the right of eminent domain for railroad purposes are hereby made applicable to proceedings under this act: Provided, That any such company may construct, use, maintain and own a street railway as is herein provided along any highway heretofore laid out or constructed or hereafter to be laid out or constructed by the board of county road commissioners or any highway adopted as a county road by the board of county road commissioners and under their control, upon such terms and conditions as may be agreed upon by the company and the said board of county road commissioners, with the approval of a majority of the board of supervisors, which agreement, and the acceptance by the company of the terms thereof, shall be recorded by the county clerk in the records of said board. Excepting, however, that whenever the right of way for such railways is acquired by the exercise of the power and right of eminent domain, the person, association or corporation acquiring the same under and by virtue of such power and right, shall not thereby acquire any right, title or interest in and to any ores or minerals either upon or beneath the surface of such part of the right of way, but the same shall remain the property of the owners of the land or ores and minerals at the time the right of way is so acquired. And said owners may, without let or hindrance, mine, take and carry away all such ores and minerals, and in doing so the said owners shall not be required to protect the surface of such right of way from being damaged or endangered by the removal of such ores and minerals. Any corporation organized under this act shall have the following additional powers, that is to say: To generate, and transmit for itself and furnish and sell electricity and electric power, and storing it, and dispensing and dividing it subject to the regulations of cities, villages and townships where sold among those who wish to purchase or lease it: Provided, That any corporation organized under this act which shall engage in the business of generating, transmitting, selling or distributing electricity shall be subject to the relevant provisions of all laws of this state relative to the regulation of the business of generating, transmitting, selling or distributing electricity for any of the purposes mentioned in this act.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2514;—How. 3548;—Am. 1893, Act 12, Imd. Eff. Mar. 4, 1893;—CL 1897, 6446;—Am. 1901, Act 234, Eff. Sept. 5, 1901;—Am. 1905, Act 101, Imd. Eff. May 10, 1905;—Am. 1905, Act 133, Imd. Eff. May 18, 1905;—CL 1915, 8544;—Am. 1919, Act 179, Eff. Aug. 14, 1919;—CL 1929, 11304;—CL 1948, 472.13.

472.14 Street railway, consent to construction and maintenance; acceptance by company; revocation.

Sec. 14. After any city, village or township shall have consented, as in this act provided, to the construction and maintenance of any street railways therein, or granted any rights and privileges to any such company, and such consent and grant have been accepted by the company, such township, city or village shall not revoke such consent, nor deprive the company of the rights and privileges so conferred.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2515;—How. 3549;—CL 1897, 6447;—CL 1915, 8545;—CL 1929, 11305;—CL 1948, 472.14.

472.15 Property and franchises; power to purchase, sell, lease and convey; motor vehicles, operation, restrictions; acquisition of capital stock.

Sec. 15. Any street railway company may also purchase or acquire, either at public or private sale, whether judicial or otherwise; or may hire any street railway in any city, village or township owned by any other corporation or company, together with all the real and personal estate belonging thereto, and the rights, privileges and franchises thereof, and may use, maintain, and complete such road, and may use and enjoy the rights, privileges and franchises of such company in the same manner and upon the same terms as the company whose road and franchise, so acquired, might have done; or may lease, sell and convey its railway, together with the rights, privileges and franchises thereof to any other street railway company subject to such terms and limitations as may be expressed in this act. Every street railway company may also purchase, hold, own or take upon lease such real estate, barns, stables, buildings, fixtures and property as may be necessary for the use and business of their road; and the whole or any part thereof, together with their railway fixtures, property and appurtenances, rights, privileges and franchises may sell, lease, dispose of, pledge or mortgage whenever the corporation shall deem it expedient so to do: Provided, however, That no company shall, under the provisions hereof, lease, purchase, or acquire a competing road. Any street railway may also, as an incident to its business and for the better service for the public, acquire, own, lease or hire motor vehicles and may, upon compliance with all laws, state and municipal, authorizing the operation and regulating the use of motor vehicles on the highway, operate the same on and over the public highways of this state for the transportation of such persons and property as it may lawfully transport on its railway: Provided, No such motor vehicle equipment shall be used to do a local business in any municipality in this state without the permission of the municipality in which such local business is wholly carried on. Any street railway may also acquire and own the capital stock of any corporation owning or operating motor vehicles for the purpose and in the manner hereinbefore stated: Provided further, Nothing herein contained shall be understood as obviating the necessity for obtaining any franchise now required by law and a certificate of public convenience and necessity from the Michigan public utilities commission as provided in Act No. 209 of the Public Acts of 1923 and any amendments thereto.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2516;—How. 3550;—CL 1897, 6448;—Am. 1905, Act 97, Imd. Eff. May 4, 1905;—CL 1915, 8546;—Am. 1929, Act 284, Imd. Eff. May 22, 1929;—CL 1929, 11306;—CL 1948, 472.15.

Compiler's note: Act 209 of 1923, referred to in this section, was repealed by Act 254 of 1933. See now § 475.1 et seq.

The public utilities commission, referred to in this section, was abolished and its powers and duties transferred to the public service commission by § 460.4.

472.16 Borrowing power; bonds and mortgages, issuance.

Sec. 16. Every street railway company may borrow money and issue their bonds therefor; and for any indebtedness incurred may mortgage their corporate property and franchises, and any property which they shall at any time acquire, to secure the payment of their bonds, money borrowed, and any and all debts and liabilities which they may at any time incur.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2517;—How. 3551;—CL 1897, 6449;—CL 1915, 8547;—CL 1929, 11307;—CL 1948, 472.16.

472.17 Street grades; conformance by company; change.

Sec. 17. In constructing their railways every such company shall conform to the grades established, or which may be established, by the common council or other corporate authorities of the city, village or township, for the street traversed by said railways, nor shall the company at any time alter or change the grade or line of any street, without the consent of the common council or other corporate authorities of the city, village or township, first had and obtained.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2518;—How. 3552;—Am. 1893, Act 12, Imd. Eff. Mar. 4, 1893;—CL 1897, 6450;—CL 1915, 8548;—CL 1929, 11308;—CL 1948, 472.17.

472.18 Laying of track; roadbed repair.

Sec. 18. Every street railway company is hereby required to lay the track of their road or railway in such way or mode, and with such kind of rail, and to keep their railway and that part of the street and pavement within and adjacent to the track of such road or railway, in such condition and state of repair as shall be prescribed and provided in the consent, grant or agreement of the municipal authorities permitting the construction and location of such road or railway.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2519;—How. 3553;—CL 1897, 6451;—CL 1915, 8549;—CL 1929, 11309;—CL 1948, 472.18.

472.19 Municipalities; authority to establish street rules.

Sec. 19. The common council or other corporate authorities of the city or village, in which any street railway shall be located, may from time to time, by ordinance or otherwise, establish and prescribe such rules and regulations in regard to said railway, as may be required for the grading, paving and repairing the street, and the construction of sewers, drains, reservoirs and crossings, and the laying of gas and water-pipes, upon, in and along the streets traversed by such road, and to prevent obstructions thereon.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2520;—How. 3554;—CL 1897, 6452;—CL 1915, 8550;—CL 1929, 11310;—CL 1948, 472.19.

472.20 Fares; agreement with municipality, increase.

Sec. 20. The rates of toll or fare, which any street railway company may charge for the transportation of persons or passengers over their road shall be established by agreement between such company and the corporate authorities of the city or village where the road is located, and shall not be increased without consent of such authorities.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2521;—How. 3555;—CL 1897, 6453;—CL 1915, 8551;—CL 1929, 11311;—CL 1948, 472.20.

472.22 Stockholder's liability.

Sec. 22. The stockholders of every company incorporated under this act, shall be jointly and severally liable, in their individual capacity, for all labor performed for such company; and shall also be liable for the debts of such company, for an amount equal to the amount of any unpaid stock in such company, held by them.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2523;—How. 3557;—CL 1897, 6455;—CL 1915, 8552;—CL 1929, 11312;—CL 1948, 472.22.

472.23 Director's or stockholder's liability for declaration or receipt of dividend when company is insolvent.

Sec. 23. If the directors of any company formed under this act shall declare or pay any dividend when the company is insolvent, or the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they and all stockholders who shall knowingly accept or receive such dividend, shall be jointly and severally individually liable for all the debts of such company then existing and for all that shall be thereafter contracted, while they shall respectively continue stockholders or in office.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2524;—How. 3558;—CL 1897, 6456;—CL 1915, 8553;—CL 1929, 11313;—CL 1948, 472.23.

472.24 Suit against stockholder; prerequisites; subrogation; contribution.

Sec. 24. But no suit shall be brought against any individual stockholder or stockholders, for any debt of such company, as provided in the last 2 preceding sections, until judgment on the demand shall have been obtained against the company, and execution thereon returned unsatisfied in whole or in part, or until the company shall have been dissolved; and any stockholder who may have paid any debt of such company, either voluntarily or by compulsion, shall have a right to sue and recover of such company the full amount thereof, with interests, costs and expenses; and any such stockholder who may have paid as aforesaid, shall have a right to bring an action against and recover of the rest of the stockholders, or any 1 or more of them, the due proportion thereof, which such stockholder or stockholders ought to pay; and if such action for contribution shall be brought against more than 1 stockholder, the judgment and the execution thereon shall specify the amount to be recovered and collected from each defendant.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2525;—How. 3559;—CL 1897, 6457;—CL 1915, 8554;—CL 1929, 11314;—CL 1948, 472.24.

472.25 Annual report; contents.

Sec. 25. On or before the second Monday in January in each year, it shall be the duty of the directors of every company formed under this act, to report to the secretary of state, under the oath of at least 2 of such directors—

- First. The amount of capital paid in;
- Second. The amount of the indebtedness of the company;
- Third. The length of road completed;
- Fourth. Cost of construction and equipment;
- Fifth. Gross receipts and earnings of the company for the past year;

- Sixth. Cost of operating the road for the past year;
- Seventh. Amount of dividends for the past year;
- Eighth. A list of stockholders, their name and residence.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2526;—How. 3560;—CL 1897, 6458;—CL 1915, 8555;—CL 1929, 11315;—CL 1948, 472.25.

472.27 Ceasing to be body corporate.

Sec. 27. Every company incorporated under this act, for the purposes of constructing a railway, shall cease to be a body corporate, if within 1 year from the time of filing their articles of association with the secretary of state, they shall not have commenced the construction of their railway, and expended therein at least 10 per cent of their capital stock.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2528;—How. 3562;—CL 1897, 6459;—CL 1915, 8556;—CL 1929, 11316;—CL 1948, 472.27.

472.28 Injury to railway property; penalty.

Sec. 28. If any person shall willfully obstruct, break, injure or destroy any railway constructed or operated under the provisions of this act, or any part thereof, or any work, cars, building or fixtures attached to or in use upon the same belonging to or in the possession of any street railway company, such person or persons so offending shall be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding 500 dollars, or by imprisonment in the county jail not more than 1 year.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2529;—How. 3563;—CL 1897, 6460;—CL 1915, 8557;—CL 1929, 11317;—CL 1948, 472.28.

472.29 Existing companies; powers, rights and liabilities.

Sec. 29. All companies and corporations heretofore organized in this state for the purpose of building and operating street railways under the statutes then in force, shall have the same powers, rights, protection and privileges, and shall be subject to all the liabilities as are hereby provided for companies and corporations organized under the provisions of this act.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2530;—How. 3564;—CL 1897, 6461;—CL 1915, 8558;—CL 1929, 11318;—CL 1948, 472.29.

472.30 Street railways to be organized under act; laws governing.

Sec. 30. All companies and corporations hereafter formed for the purpose of constructing, owning or using any street railway for the transportation of persons and passengers, in any city or village, shall be organized under the provisions of this act, and shall be subject to the provisions of chapter 73, of the Compiled Laws of this state, and to all other general laws of this state, relating to corporations, so far as the same may be applicable to corporations formed under this act, and the legislature may alter and amend, or repeal this act at any time.

History: 1867, Act 35, Imd. Eff. Mar. 5, 1867;—CL 1871, 2531;—How. 3565;—CL 1897, 6462;—CL 1915, 8559;—CL 1929, 11319;—CL 1948, 472.30.

Compiler's note: For provisions of chapter 73, referred to in this section, which have not been repealed or reenacted, see §§ 450.504 to 450.525.

472.31 Precedence at railway crossing.

Sec. 31. At all crossings of the tracks of 2 street railways, when a car on each road approaches such crossing at substantially the same time, the car on the track first laid shall have precedence and be entitled to the right of way: Provided, No car shall be stopped on such crossing.

History: Add. 1889, Act 131, Imd. Eff. June 7, 1889;—How. 3565a;—Am. 1891, Act 24, Eff. Oct. 2, 1891;—CL 1897, 6463;—CL 1915, 8560;—CL 1929, 11320;—CL 1948, 472.31.

472.31a Elevated railways.

Sec. 31. Elevated railway companies may be organized under the provisions of this act.

History: Add. 1889, Act 222, Imd. Eff. June 29, 1889;—How. 3565-b;—CL 1897, 6463-n;—CL 1915, 8561;—CL 1929, 11321;—CL 1948, 472.31a.

Compiler's note: Act 131 of 1889 and Act 222 of 1889 both added a section 31.

472.32 Cars to stop at railroad crossing; exception; penalty.

Sec. 32. Street railway companies shall require the drivers of street cars to bring such cars to a full stop before going upon a street railway crossing or the tracks of a steam railroad, and to make sure that no engine

or cars are approaching such crossing before he proceeds to go upon the same. If the driver of any street car shall neglect to bring such car to a stop, as hereinbefore provided, he shall for every such neglect be liable to a fine of 25 dollars: Provided, That whenever there shall be adopted and used at any such crossing, an interlocking switch and signal system, or other device or regulation, which in the judgment of the Michigan railroad commission will render it safe to permit cars and trains to pass over such crossing without being brought to a stop, as above provided, said Michigan railroad commission may, by written order, a copy of which shall be filed and retained in its office, give permission for cars and trains to pass, under such regulation as to rate of speed and in other respects as it may deem proper, which order, however, said commission may at any time modify or revoke.

History: Add. 1889, Act 222, Imd. Eff. June 29, 1889;—How. 3565c;—CL 1897, 6464;—Am. 1913, Act 382, Eff. Aug. 14, 1913;—CL 1915, 8562;—CL 1929, 11322;—CL 1948, 472.32.

Compiler's note: The powers and duties of the railroad commission, referred to in this section, were transferred to the public utilities commission by § 460.53. The public utilities commission was subsequently abolished and its powers and duties transferred to the public service commission by § 460.4.

472.34 Express and light freight; carriage, time of operation.

Sec. 34. Corporations organized under this act may do a suburban express business and may carry farm produce, garden truck, milk, merchandise and other light freight: Provided, That no cars for the conduct of any such business shall be operated on any street railway within the limits of any incorporated city or village in the day time, between 8 o'clock in the morning and 8 o'clock in the evening, without the consent of the municipal authorities, and under such rules and regulations as they may prescribe.

History: Add. 1897, Act 102, Imd. Eff. Apr. 28, 1897;—CL 1897, 6465;—CL 1915, 8563;—CL 1929, 11323;—CL 1948, 472.34.

472.35 Control by commissioner of railroads.

Sec. 35. All street railway corporations organized or doing business under this act shall be subject to the supervisory control of the commissioner of railroads as provided by Act No. 171 of the Public Acts of 1893, and the commissioner of railroads shall also have power to make from time to time reasonable rules and regulations for the operation of the street railways of such corporations in the conduct of the suburban express business they are authorized to carry on by this act as amended.

History: Add. 1897, Act 102, Imd. Eff. Apr. 28, 1897;—CL 1897, 6466;—CL 1915, 8564;—CL 1929, 11324;—CL 1948, 472.35.

Compiler's note: For provisions of Act 171 of 1893, referred to in this section, see MCL 469.31 et seq.

The powers and duties of the commissioner of railroads, referred to in this section, were transferred to the railroad commission by MCL 462.49. The powers and duties of the railroad commission were transferred to the public utilities commission by MCL 460.53. The public utilities commission was equently abolished and its powers and duties transferred to the public service commission by MCL 460.4.

For transfer of functions relating to the regulation of common carrier railroads from the Public Service Commission to the Department of Transportation, see E.R.O. No. 1982-3, compiled at MCL 247.823 of the Michigan Compiled Laws.

Transfer of powers: See MCL 247.823.

472.36 Obstruction of track; penalty.

Sec. 36. That every person who places upon any street railway any timber, stone, iron or any other obstruction or who shall loosen or displace any rail of the track of such railway or shall break down or displace, destroy or injure any bridge, culvert or embankment of any such street railway or do any other act with intent to endanger the safety of any person traveling or being upon such street railway or to throw from such street railway any motor car, trailer car or car moving along the track of such street railway on which shall be any person injured thereby shall be punished by imprisonment in the state prison for life or for a term of years.

History: Add. 1897, Act 102, Imd. Eff. Apr. 28, 1897;—CL 1897, 6467;—CL 1915, 8565;—CL 1929, 11325;—CL 1948, 472.36.

FRANCHISE OF PLANK OR TOLL ROAD COMPANIES; PURCHASE OR CONDEMNATION
Act 67 of 1891

AN ACT to provide for the purchase or condemnation of the franchise of plank or toll road companies by electric or street railroad companies.

History: 1891, Act 67, Eff. Oct. 2, 1891.

The People of the State of Michigan enact:

472.101 Street or electric railway; acquisition of franchise of toll road company; purchase.

Sec. 1. That any street or electric railway company of this state may purchase all or any portion of the rights and franchise of any toll road company, in any of the streets, avenues or highways of this state, at a valuation to be agreed upon between the directors of the said electric or street railway companies and the board of directors of said toll or plank road company.

History: 1891, Act 67, Eff. Oct. 2, 1891;—CL 1897, 6470;—CL 1915, 8568;—CL 1929, 11326;—CL 1948, 472.101.

472.102 Street or electric railway; condemnation, procedure, limitations.

Sec. 2. In case no agreement can be reached for the purchase of the right of such toll road company, said electric or street railway company is authorized to condemn such rights and franchise of said toll or plank road company in which condemnation such street or electric railway company shall proceed as in the condemnation of lands or franchises for railroad purposes under chapter 91 of the third volume of Howell's annotated statutes, being chapter 75 of the Compiled Laws of 1871, and all acts amendatory thereto, so far as the same are applicable: Provided, however, That said street or electric railway company shall only condemn that part of the franchise of said toll or plank road company as may lie between its old established road bed and the side line of the street, except where it may be necessary to cross the street or go where a toll house may happen to be located: Provided, That the provisions of this act shall not be so construed as to [affect] effect the rights of abutting property owners or the rights of the public in such highways.

History: 1891, Act 67, Eff. Oct. 2, 1891;—CL 1897, 6471;—CL 1915, 8569;—CL 1929, 11327;—CL 1948, 472.102.

Compiler's note: For provisions of chapter 91, referred to in this section, see § 463.1 et seq.